IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTYFIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J. CHELAMESWAR

AND

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11613 of 2004

Between:

P.Sridhar, s/o Balaganeswara Rao,

Aged about 27 years, r/o New Colony,

Near Kusuma Guddi Street, Parvathipuram

Vizianagaram District.

..... PETITIONER

AND

1. The Commissioner and Director,

Municipal Administration, A.P., Hyderabad.

2. The Principal Secretary, Municipal Administration,

Government of A.P., Secretariat, Hyderabad.

3. The Commissioner, Parvathipuram Municipality,

Parvathipuram, Vizianagaram Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari and call for the entire records pertains the order O.A. No. 5949/1999 dt 7.5.2004 passed by Andhra Pradesh Administrative Tribunal and quash the same and consequently direct the respondents to regularize the services of the petitioner.

For the Petitioner: Mr. T.Dasaradha Ramayya, Advocate

For the Respondent : Government Pleader for Municipal Administration for respondents 1 & 2

Mr. D.Srinivas, Advocate, for R-3

The Court at the admission stage made the Following

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ORAL ORDER: (Per Hon'ble Sri Justice G. Raghuram)

The writ petition is directed against the order of the A.P. Administrative Tribunal dated 7.5.2004 in O.A. No. 5949 of 1999. The learned Tribunal dismissed the said OA along with a connected O.A. No. 5867 of 1999. The petitioner's claim for regularisation of his service on the basis of G.O.Ms. No. 547 Municipal Administration & Urban Development (UBS) Department, dated 13.10.1998, was rejected on the ground that the provisions of the said G.O. have no application to the petitioner, who claims to have been employed as an Attender in Parvathipuram Municipality under the UBSP scheme, w.e.f. 1.4.1992. The respondent-Municipality contended before the Tribunal that the petitioner was never employed by it as an Attender. The Tribunal recorded a conclusion that there was no record to evidence the employment of the petitioner as an Attender in Parvathipuram Municipality.

The petitioner now contends that the findings of the Tribunal that he was never employed by the Parvathipuram Municipality either as an Attender or otherwise, are contrary to the facts and have been recorded without considering the material placed

before it. He also contends that there is sufficient material to substantiate his claim that he was employed as an Attender by the Parvathipuram Municipality. He reiterates his claim for regularisation of his service under G.O.Ms. No. 547.

The Tribunal is seen to have correctly concluded that the provisions of G.O.Ms. No. 547 have no application to employees other than Assistant Project Officers. Whether the petitioner was working on voluntary basis in the UBSP scheme or was employed as an Attender by the Parvathipuram Municipality, in either event the provisions of G.O.Ms. No. 547 do not entitle him to the benefits of regularisation of service. This conclusion of the Tribunal is impeccable and warrants no interference.

With respect to the other grievance, as to the finding recorded by the Tribunal that the petitioner was not employed at all by the Municipality, this court is of the considered view that there is some material which may point towards an employee – employer nexus between the petitioner and the Parvathipuram Municipality. Even if such employer – casual employee relationship is established, that per se would not entitle the petitioner to regularisation of his service with the Municipality. At this stage the learned counsel for the petitioner submits that the petitioner would like to purse his remedies as regards the termination of his services by the Municipality in the year 2000, before the Labour Court under the Industrial Disputes Act, 1947 and that he will be satisfied if the observations/conclusions of the Tribunal regarding his employment status with the Parvathipuram Municipality are set aside so as not to bar his claims before the Labour Court.

In the circumstances the findings/conclusions of the A.P. Administrative Tribunal in O.A. No. 5949 of 1999 as regards the employment status of the petitioner with the Parvathipuram Municipality, are expunged.

The writ petition is disposed of as above, at the admission stage. No order as to costs.

Dated:21.07.2004 ----------

PVSN J. Chelameswar, J

G. Raghuram, J

To

1. The Registrar, A.P. Administrative Tribunal, Hyderabad.

2. The Commissioner and Director,

Municipal Administration, A.P., Hyderabad.

3. The Principal Secretary, Municipal Administration,

Government of A.P., Secretariat, Hyderabad.

4. The Commissioner, Parvathipuram Municipality,

Parvathipuram, Vizianagaram Dist.

5. Two Copies to Government Pleader for

Municipal Administration (OUT), High Court Buildings.

6. 2CD copies